

SECTION IV – QUALIFYING TENANTS FOR LIHTC UNITS

Potential tenants for low-income, rent-restricted units should be advised early in the application process that there are income limits that apply to these units. Management should explain to potential tenants that the anticipated income of all adult persons expecting to occupy the unit must be included and verified on a Tenant Income Certification (TIC) form prior to occupancy and, then, annually recertified for continued eligibility.

Part 400 The Tenant Application

A fully completed application is critical to an accurate determination of tenant eligibility. The information furnished on the application should be used as a tool to determine all sources of income, including total assets and income from assets.

At the time of the application, it is the management agent's responsibility to obtain sufficient information on all prospective tenants to completely process the application and complete the Tenant Income Certification.

HUD 4350.3 REV-2 lists guidelines, which the owner may want to adopt for the application process. The application should include:

1. The name and age of each person that will occupy the unit (legal name should be given just as it will appear on the lease and tenant income certification).
2. All sources and amounts of current and anticipated annual income expected to be derived during the twelve month certification period. Include assets currently owned and indicate if household members disposed of assets for less than fair market value during the previous two years.
3. The current and anticipated student status of each applicant during the twelve month certification period.
4. A screening process, for example, previous landlord's credit information. Owners should ask applicants whether the family assistance or tenancy in a subsidized housing program has ever been terminated for fraud, nonpayment of rent or failure to cooperate with recertification procedures.
5. The signature of the applicant and the date the application was completed. It may be necessary to explain to the applicant that all information provided is considered confidential and will be handled accordingly.
6. Housing history for the past two years.

Part 410 Tenant Income Verification

IRS Revenue Notice 88-80 (Appendix 4) states that determination of annual income of individuals and area median gross income adjusted for household size must be made in a manner consistent with HUD Section 8 Income definitions and guidelines. HUD Handbook 4350.3 REV-2, Occupancy Requirements of Subsidized Multifamily Housing Programs, can be used as reference guide and is included in Appendix 2. However, please keep in mind that the allocating

agency (CTCAC) can impose stricter requirements for determining income eligibility beyond what HUD Handbook 4350.3 REV-2 requires.

The income of every prospective occupant of the unit over the age of 18 must be verified. All regular sources of income including income from assets must be verified. Verifications must be received by the management agent prior to the execution of the Tenant Income Certification and actual move-in. Verifications must contain complete and detailed information and include, at a minimum, direct written verification from all sources of regular income and income from assets.

A. Effective Term of Verification

Third-party verifications of income are valid for 120 days prior to move-in. If after 120 days the tenant has not yet moved in, a new written verification must be obtained.

B. Methods of Verification

1. Written Verification

Written, third party verification is required. Any request for income verification must:

- (a) State the reason for the request;
- (b) Include a release statement signed and dated by the prospective tenant;
- (c) Provide a section for the employer or other third-party source to state the applicant's hire date, current anticipated gross annual income or rate of pay, number of hours worked, income YTD, and frequency of pay. Bonuses, tips and commissions must be included. Spaces should also be available for a signature, job title, phone number, and date.
- (d) Probability and effective date of any increase during the next twelve (12) months.
- (e) CTCAC requires three months of consecutive pay stubs at initial move-in for wage earners only.

2. Verbal Verification

When written verification is not possible prior to move-in, direct contact with the source will be acceptable to CTCAC only as a last resort (at the owner's risk*) and should be followed by written verifications. The conversation should be documented in the applicant's tenant file to include all information that would be contained in a written verification. The information must include the name and title of the contact, the name of the on-site management representative accepting the information, and the date.

** please note that moving a household into a tax credit unit based solely on verbal verification could possibly lead to moving in an income ineligible household and risk tax credits to the owner.*

3. Verification Transmittal

Applicants should be asked to sign two copies of each verification form. The second copy may be used if the first request has not been returned from the

source in a timely manner.

Income verification requests must be sent directly to the source by the owner or management agent and returned by the source to the owner or management agent. Under no circumstances should the applicant or resident be allowed to send or deliver the verification form to the third party source. It is suggested that a self-addressed, stamped envelope be included with the request for verification, to ensure a timely response.

All tenant income verifications should be date stamped as they are received.

4. Acceptable Forms of Income Verification

For information concerning acceptable forms of income verification for Employment Income, Self-Employment Income, Social Security/Pensions/Supplemental Security Income (SSI)/Disability Income; Unemployment Compensation, Alimony or Child Support Payments; Recurring Contributions and Gifts; Scholarships, Grants, Veteran's Administration Benefits; etc., see the required CTCAC forms and/or the HUD Handbook 4350.3 REV-2 found in Appendix 2 of this manual.*

**Additional guidance on verification requirements can be found in the IRS Guide to Form 8823, Chapter 4 – 21, Section 2 – Documentation Requirements. (Appendix 2)*

C. Discrepancies in Reported Income

The management agent should give the applicant the opportunity to explain any significant differences between the amounts reported on the application and amounts reported on third-party verifications in order to determine actual income. The explanation of the difference should be documented in the tenant file via third party with the employer and the higher amount used.

D. Assets

Assets are items of value, other than necessary personal items. Income from assets must be taken into consideration when determining the eligibility of a household. Asset information (asset value and income from the asset) should be obtained at the time of application.

Third party verification of assets is required when the combined value of assets exceeds \$5,000. Owners of tax credit projects will not have to obtain third-party verification of income from assets if the tenant submits to the owner a signed, sworn statement that the value of their combined assets is less than \$5,000. The tenant's income from the net household assets that are less than \$5,000 must be included in the calculation of the annual income amount when initially qualifying a household and upon recertification.

For information regarding which net household assets are included or excluded to determine the value of and income from assets, see HUD Handbook 4350.3 REV-2

E. Computing the Total Household Income

After all income and asset information has been obtained and calculated, all qualified sources of income are added to derive the total household income. In order for the household to qualify for a tax credit unit, the total household income must be less than or equal to the maximum allowable qualifying income for household size in effect at the time of tenant certification. If the total household income is greater than the maximum allowable qualifying income, the household cannot be certified for a tax credit unit.

Part 420 Initial Tenant Income Certification Guidelines

The initial certification guidelines are as follows:

- A. Each tenant must complete the required CTCAC Tenant Income Certification (TIC) and any required management form.
- B. The head of household and every adult member of the household must sign the Application. Appendix 3 contains a copy of the TIC Questionnaire* with questions that potential tenants should be asked.
- C. Verifications for every item marked “yes” on the TIC Questionnaire should be obtained and signed by the applicant.
- D. Once all the income and asset information has been obtained and calculated, prepare the required CTCAC Tenant Income Certification (see sample, Appendix 3) for each household. The following guidelines apply:
 - 1. Upon receipt of all verifications, owners or managers should review all documentation and calculations, as necessary. If all requirements for eligibility are met, the applicant can be considered as qualified.
 - 2. Execute a lease agreement with a minimum of a 6 month term. No one may live in a tax credit eligible unit in the project unless he/she is certified and under lease.
 - 3. Management should instruct the prospective tenant(s) to sign the lease exactly as the name appears on the form.
 - 4. It is preferred that the lease be executed on the date of move-in.
 - 5. All adult members of the household must sign and date the lease.

please note that CTCAC requires a completed TIC Questionnaire for **each adult member of a household.*

Part 430 Annual Income Recertification Requirements

- A. The owner must perform, at least on an annual basis, an income certification for each low-income household and receive documentation to support that certification. Upon receipt of all verifications, owners or managers should determine if the unit still qualifies for participation in the Tax Credit Program.
 - 1. Recertification of income must be done annually. CTCAC monitors recertification 365 days from the later of the move-in date or the one-year anniversary of the previous certification.

2. In the event a new member has been added to a qualifying household, the following steps must be taken at recertification:
 - a. The additional tenant verifications of income and assets must be completed, as with a new household;
 - b. The additional tenant's income must be added to the current household's previously certified income. The combined household income must be compared to the maximum allowable income limit in effect at the time and based on actual household size; and
 - c. If the combined household's income is greater than 140% of the current maximum allowable income, a determination must be made as to whether the building or project will be in violation of Section 42 requirements by adding the new tenant.

*Example: 1 person household income limit = \$15,000
2 person household income limit = \$17,000
140% of 2 person income limit = \$23,800*

Tenant A is a qualified tenant living alone in a one-bedroom unit. Her income at initial certification was \$10,500. Eight months after Tenant A moves into the project, she informs management that Tenant B will be moving into the unit in two months. Before moving in, Tenant B is certified as earning \$12,900. The household's combined income will be \$23,400. The house will still qualify, since it is below the 140% limit of \$23,800. If the combined income of Tenants A and B would exceed 140% of the current income limit, the next available unit rule may go into effect.

3. If tenants in a previously qualified household become full-time students, the household can only be considered as a qualified tax credit household if at least one of the student criteria is met as described in Section III, #350 A of this manual.
4. In the event that a tenant occupies a unit in a building prior to the Placed In Service date of the building (as shown on the project's IRS Form(s) 8609), and the verification of the tenant's income was performed more than 120 days prior to the Placed In Service date, the tenant must be recertified on the Placed-In-Service date.
5. In the event the household composition changes in any way, i.e., birth, death, marriage, divorce, or a household member vacates the unit, the household must notify management of the changes at certification.
6. Per the 2007 IRS Guide to Form 8823, should an existing household in a 100% tax credit property wish to transfer to a new tax credit unit in a different building,

the income must be less than 140% of current limits. All application, verification, and certification procedures are kept in the file with the transfer information for the household. The units then swap status.

Continuing eligibility guidelines reverts to the unit in which the tenant resides. If management transfers a tenant who has qualified to reside in the unit, upon initial certification as an income eligible tenant (thus qualifying the unit as a LIHTC unit), management must be certain that the tenant(s) is still eligible. If the tenant's income exceeds the 140% of AMI, the transfer may result in recapture of the tax credits.

If the tenant's income does not increase to above 140% of the applicable income, the tenant is eligible provided the tenant resides in the same unit and rent remains restricted. An over-income tenant may transfer to a unit within the same building and continue to be eligible as long as the rent remains restricted.

7. For Section 8 recertification, follow the HUD Guidelines.

B. Recertification Procedure

1. Notify tenant that recertification is due.
2. Interview tenant and obtain information on income, assets and household composition.
3. Every tenant age 18 or over must complete the recertification documentation.
4. Verify each tenant's income and assets. Supporting documentation (third-party income verification, employment verification, child support affidavit, etc.) must be reviewed and added to the Tenant/Unit File each year. (See Maintain a Development File, Section II, #210-I).
5. Complete a Tenant Income Certification.
6. Review the income and asset verifications and the Tenant Income Certification to determine the tenant's eligibility for an LIHTC unit.
7. The renewal lease may be executed at the time all required forms are signed and approved.
8. Notify tenants of any rent increase resulting from the recertification.

C. Annual Recertification Waiver

CTCAC has chosen to continue requiring an annual recertification of tenant income in 100% low-income projects. An Annual Recertification Waiver is **not** an option at this time. However, CTCAC will periodically review the feasibility of implementing the waiver program. Any changes will be posted on our website at www.treasurer.ca.gov/ctcac/compliance.asp

Part 440 Students

A. Part-Time Student -

CTCAC has no restrictions on the number of part-time students occupying an apartment as long as there is third party documentation from the school in the file, showing the tenant as part-time only. This should be updated regularly (each semester/quarter) as student status can change and cause a household to become ineligible.

B. Full-time Student (including K-12 and adult dependents) -

In order for a household of full-time students to be considered eligible, they must meet one of the following criteria:

1. **All** members of the household are married and either file or are entitled to file a joint tax return
2. The household consists of a single parent and his or her minor children, and the parent is not a dependant of a third party. Any children may be claimed as a dependant of either parent, regardless of tenancy in unit.
3. At least one member of the household receives assistance under Title IV of the Social Security Act. (AFDC, TANF, CalWORKS, etc.)
4. At least one member is enrolled in a job training program receiving assistance under the Work Investment Act (WIA) formerly known as the Job Training Partnership Act, or similar federal, state or local laws

C. \$480 Student Income

Under special circumstances, HUD Handbook 4350.3 REV-2, allows only \$480 of a full-time student's income to be counted toward income eligibility. To be eligible all of the following criteria must be met:

1. Student cannot be listed as Head, Co-head, or Spouse of Household
2. The students full-time status must be 3rd party verified with their school/college
3. The students wages must also be 3rd party verified with their employer

Additionally, CTCAC requires that to be eligible under this rule, all the following criteria must also be met and owner must include in the tenant file evidence of such:

4. Student must be claimed a dependent of the head or co-head of the household on their income tax filings.
OR:
5. On student's tax filings he/she must show that he/she is a dependent on the Head of Household's tax return.

D. Financial Aide Verification

In February 2006, HUD announced changes to income calculations to include all forms (except loans) of Financial Aid above the cost of tuition (as determined by the school) for all households with students not claimed as a dependent on the Head of Household's Tax Return, or over age 23 with a dependant child(ren). This change applies to both full and part-time students. In July of 2006, CTCAC started to require the Financial Aid Verification form for all households with students in addition to the Student Status Verification form.

E. Single Parent Full-time Student Affidavit

In January 2008, the IRS clarified the requirement of a single-parent full-time student household. As a result of this clarification, CTCAC is longer requiring that all children in

the household be claimed as a dependant on the Head of Household's 1040 tax return. In place of 1040 tax documentation, CTCAC has created the Single Parent Full-time Student Self Affidavit. **This will be a required form as of July 2008.**

Part 450 The Lease and CTCAC Required Lease Rider

All residents occupying tax credit units must be certified and under lease no later than the time a tenant moves into the unit. Leasing guidelines are listed below.

- A. At a minimum, the lease should include (but is not limited to):
 - 1. The legal name of all parties to the agreement and all other occupants.
 - 2. A description of the unit to be rented.
 - 3. The date the lease becomes effective.
 - 4. The term of the lease.
 - 5. The rental amount.
 - 6. Any mandatory charges to the tenants
 - 7. The use of the premises.
 - 8. The rights and obligations of the parties, including the obligation of the tenant to certify annual (or more frequently as required) to income as defined herein.
 - 9. Language which addresses income decrease, utility allowance increase/decrease, income limit increase, basic rent changes (in RHS or 236 projects), household composition change or any other change and its impact on the tenant's rent.
- B. Rents on the tax credit units may not exceed the amounts allowed by Section 42 of the Code or stated in the project's Regulatory Agreement.
- C. There must be an initial lease term of at least 6 months on all tax credit units (except for housing for the homeless and single-room-occupancy). Succeeding leases are not subject to a minimum lease period.
- D. It is important for the lease to reflect the correct date of move-in, or the date the tenant takes possession of the unit. This date should match the move-in date reflected on the initial move-in Tenant Income Certification (TIC)

CTCAC Required Lease Rider (Good Cause Eviction Rider):

The CTCAC Required Lease Rider (Lease Rider) became required in 2005, and must be executed by all current and new tax credit households. The Lease Rider must be included with leases for all new tax credit households at initial leasing only. The Lease Rider is posted on CTCAC's website. The Lease Rider informs tax credit households that they may not be evicted, or not have their leases renewed by the owner or management agent unless there is "Good Cause" to do so. Once signed, it is not necessary to re-sign a new lease rider at every recertification. If there are any new additions to a household, or a child reaches his or her majority, then the "new" tenant should sign the existing waiver with the current date.

Part 460 The Tenant/Unit File

The Tenant/Unit File must contain the following:

- A. Initial Application. This must include a minimum of a two-year housing history
- B. Tenant Income Certification. This certification should detail the annual income of each resident in the household, applicable area median income limit, and must be signed and dated by all adult household members.
- C. Third Party Verifications. Documentation verifying all income and assets of the household for each certification, and each annual recertification. At move-in, employment verification must be accompanied by three months of pay stubs for each employed adult. (see Appendix 11).
- D. Section 42 Lease and Addenda. The initial lease term for all Section 42 residents must be a minimum of six months in length, unless the unit is a qualified Single-room-occupancy Unit. It must also include documentation showing the property is monitored under the provisions of IRS Regulation Section 42.
- E. Other Documents. These include:
 - any optional contract item that the tenant pays for and is not contained in the lease (parking, pets, etc.), or base rent;
 - change in unit occupancy (increase or decrease in household);
 - income and asset certification for all new adult residents.
- F. Applicable Housing and Financing Requirements specific to the Unit. If other housing or financing programs govern the development, the applicable documentation reflecting compliance to its requirements should also be in the resident's file. These programs may include: HOME Investment Partnership, Tax Exempt Bond Financing, HUD or Rural Housing and Community Development Services (formerly Farmer's Home Administration).
- G. A Release of Information Consent form signed by each adult member of the household.
- H. Student Eligibility Verification. For information on student eligibility, see Section IV, #440.
- I. If the project was funded as a designated senior property, documentation that the tenant and household is eligible as a "senior" person (Section III, #380).
- J. Annual Recertification

Part 470 Qualifying Section 8 Tenants for LIHTC Units

- A. Written income certification from PHA (see Appendix 3: PHA Certification.)

OR

- B. An owner's management agent may substitute a completed, executed copy of the HUD 50059 form in lieu of the completed Tenant Income Certification (TIC). A blank TIC signed by all adult household members that includes the following information must accompany the HUD 50059: street address, Building Identification Number (BIN) where the unit is located written at the top.

The substitution of this form does **not** waive the requirement for the owner to maintain supporting income documentation. The income verification procedures outlined in Section IV-410, and the supporting documentation outlined in Section IV-460, must be followed when certifying the eligibility of Section 8 certificate and/or voucher holders, and tenants in Section 8 project-based developments. The following modification must be made to the HUD 50059: The street address and BIN of the building in which the unit is located must be written or typed at the top of each form.

The HUD 50059 with supporting documentation replaces only the items outlined in paragraph B. above. No other substitution of forms or certification procedures will be permitted. ALL other initial certification and recertification procedures outlined in Section IV, #420, # 430, and #440, and throughout this manual must be followed. ALL of the annual certification requirements, outlined in Section V, #540, must be completed and submitted to CTCAC as described. All other tax credit policies and guidelines outlined in this manual and in federal and state regulations apply to Section 8 projects, except as noted therein.

The Tenant/Unit File must contain a HUD 50059 with supporting documentation for the initial certification and an updated HUD 50059 for every interim and annual recertification. The Tenant/Unit File must contain all other documentation outlined in this section, including, but not limited to, an application and lease agreement.

If a HUD 50059 or updates cannot be obtained by the owner/management agent or the tenant discontinues participation in the Section 8 program, all of the initial certification and/or interim and annual recertification procedures outlined in Section IV, #420, #430, and #440 must be followed.

Using the HUD 50059 to Qualify Tenants for LIHTC Units

Use lines 90-92 from the HUD 50059 to compare to the appropriate area median gross income limit as adjusted for household size. Tax credit income limits are based on the gross annual income of a household, not adjusted annual income.

Use line 111, Total Tenant Payment, to compare to the maximum allowable tax credit rent. Tax credit rent limits are based on the tenant-paid portion of the rent and tenant-paid utilities and do not include any subsidy payments.

In order to maintain Section 42 compliance it is strongly recommended that owner's maintain a section of the tenant file with all required CTCAC verification requirements and mandated forms separate from the section containing the HUD paperwork. Failure to

maintain third party verification of supporting income documentation can result in an issue of noncompliance.

Part 480 Qualifying Tenants in RHS Projects for LIHTC Units

An owner/management agent of a project financed by the Rural Economic and Community Development (RHS, formerly Farmers Home Administration) may substitute a completed RHS 1944-8 form in lieu of the completed TIC. A blank TIC that includes the following information must accompany the RHS Form 1944-8: the address, number of bedrooms in the units, the date household moved into the particular unit including the BIN the unit is located in written at the top of the TIC.

The substitution of this form does not waive the requirement for the owner to maintain supporting income documentation. All other initial certification procedures outline in Section IV, #420, #430 and #440, and throughout this manual must be followed.

- A. A worksheet calculating net household assets, detailing:
 - 1. For each type of asset, the following information:
 - a. the type of asset (cash, real estate property, stocks, etc.).
 - b. the cash value of the asset.
 - c. the actual yearly income from the asset.
 - 2. The combined total cash value of all assets
 - 3. The combined total actual yearly income from all assets.
 - 4. For households with assets with a total cash value exceeding \$5,000 the imputed income from assets based on the HUD approved passbook rate.
- B. The following written or typed at the top of the RHS 1944-8:
 - 1. The number of bedrooms in the unit;
 - 2. The street address and BIN number of the building in which the unit is located; and
 - 3. The date the tenant moved into the unit.

The RHS 1944-8 replaces only the Tenant Income Certification. No other substitution of forms or certification procedures will be permitted. All other initial certification and recertification procedures outlined in Section IV, #420, #430, and #440, and throughout this manual must be followed. All of the annual certification requirements, outlined in Section V, #540, must be completed and submitted to CTCAC as described. All other tax credit policies and guidelines outlined in this manual and in federal and state regulations apply to RHS projects.

The Tenant/Unit File must contain a RHS 1944-8 for the initial certification and an updated RHS 1944-8 for every annual recertification. The Tenant/Unit File must contain all of the other documentation outlined in Section IV, #470, including, but not limited to, third party verifications and lease agreement.

If an RHS 1944-8 is not completed, all of the initial certification and annual recertification requirements and procedures outlined in Section IV, #420, #430, and #440 must be followed.

Using the RHS Forms to Determine Rent and Income

Use Line 22, from the RHS 1944-8 to compare to the appropriate area median gross income limit as adjusted for household size. Tax credit income limits are based on a household's gross annual income, not adjusted annual income.

Use Line 33 the Final Net Tenant Contribution, to compare to the maximum allowable tax credit rent. Tax credit rents are based on the tenant-paid portion of the rent and tenant-paid utilities and do not include any subsidy payments.

In order to maintain Section 42 compliance it is strongly recommended that owner's maintain a section of the tenant file with all required CTCAC verification requirements and mandated forms separate from the section containing the RHS paperwork.